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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,281	10/24/2005	Gunter Fuhr	46955.23	8505
23973 7590 03/21/2008 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE 18TH AND CHERRY STREETS PHILADELPHIA, PA 19103-6996				
EXAMINER				
MACAULEY, SHERIDAN R				
ART UNIT		PAPER NUMBER		
1651				
MAIL DATE		DELIVERY MODE		
03/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,281

Applicant(s)

FUHR ET AL.

Examiner

Sheridan R. MacAuley

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The response and amendment received on November 26, 2007 have been entered. All evidence and arguments have been fully considered. Claims 1-18 are pending. Claims 1-14 have been withdrawn due to a previous requirement for restriction. Claims 15-18 are examined on the merits in this office action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Rejections under 25 USC 112 have been withdrawn due to applicant's amendment and evidence.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuhr et al. (WO02/46719, see US 2004/0065093 for English translation).

6. Claim 15 recites a method for storage of at least one suspension specimen in a low-temperature state in a carrier comprising the steps of: accommodating the at least one suspension specimen in at least one specimen chamber made of a flexible material

that is elastically deformable at room temperature; positioning the specimen chamber in a first frame part of a mounting frame of a carrier, the mounting frame comprising said first frame part and a second frame part, said frame parts adapted for assembling together detachably using one or more connecting elements; connecting the first and second frame parts into an assembled state wherein the first and second frame parts come into contact on side faces of the frame parts and with the specimen chamber, such that the specimen chamber is immovable relative to the mounting frame; and converting the suspension specimen to a low-temperature state by positioning the carrier with the specimen chamber in cryomedium. Claim 16 recites the method of claim 15, wherein each specimen chamber comprises at least one inlet end and one outlet end, and at least one suspension specimen is inserted into a corresponding specimen chamber by immersing the inlet end of the corresponding specimen chamber into a specimen reservoir and transferring the suspension specimen under the influence of a vacuum applied to the corresponding outlet end of the specimen chamber, or under the influence of capillary forces. Claim 17 recites the method of claim 15, wherein at least one partial specimen is detached from the at least one specimen chamber in the low temperature state by mechanical separation. Claim 18 recites the method of claim 17, wherein the mechanical separation comprises cutting off chamber sections of the specimen chamber adjacent to the frame parts of the carrier.

7. Fuhr teaches a method for storage of a suspension specimen in a low-temperature state in a carrier comprising accommodating the specimen in a specimen chamber that may be made of a flexible material (note that Fuhr discusses the use of a

meandering hose that may be closed by clamping together and states that, alternately, a rigid tube may be used; see English translation, p. 7, par. 82-83), positioning the specimen chamber in a first frame part of a mounting frame of a carrier, which comprises a first and second frame part, which are adapted for assembling together detachably using one or more connecting elements, connecting the first and second frame parts into an assembled state wherein the first and second parts come into contact on side faces with the specimen chamber, such that the specimen chamber is immovable relative to the mounting frame, and converting the specimen to a low-temperature state by positioning the carrier with the specimen chamber in a cryomedium (see English translation, figs. 17, 18, 21-24, p. 3, par. 24, p. 4, par. 48-49, p. 8, par. 88, 91). The specimen chambers of Fuhr may comprise an inlet end and an outlet end and may be filled with a suspension specimen by placing the inlet end into a specimen chamber and applying reduced pressure to the outlet end (i.e. the chamber is filled by application of a vacuum or by capillary forces; fig. 21, see English translation, p. 8 par. 88). In the method of Fuhr, at least one partial specimen may be detached from the specimen chamber in the low-temperature state by mechanical separation, such as cutting off chamber sections of the specimen chamber adjacent to frame parts of the carrier (see English translation, figs. 21, 22, p. 5, par. 60, p. 7, par. 80, p. 8, par. 90).

8. Therefore, Fuhr anticipates all of the limitations of the cited claims.

Claim Rejections - 35 USC § 103

9. Applicant's arguments, see p. 8, par 2-p. 9, par. 2 of the arguments filed on November 26, 2007, with respect to the rejection(s) of claim(s) 15-18 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 USC 102 in view of Fuhr et al. (WO02/46719, see US 2004/0065093 for English translation).

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan R. MacAuley whose telephone number is (571)270-3056. The examiner can normally be reached on Mon-Thurs, 7:30AM-5:00PM EST, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SRM

/Ruth A. Davis/
Primary Examiner, Art Unit 1651